

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2188 of 2000

with

FIRST APPEAL No 2189 of 2000

with

CIVIL APPLICATION NOS. 8612/2000 & 8613/2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE K.M.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
GUJ.STATE ROAD TRANSPORT CORP

Versus

RAMESHBHAI PREMJBHAI  
-----

Appearance:

MR HS MUNSHAW for Petitioner  
-----

CORAM : MR.JUSTICE J.N.BHATT

and

Date of decision: 10/10/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Both these appeals arise out of a common judgement and common accident. Therefore, they are being disposed of simultaneously by this common judgement.

2. On 24.12.1988 at about 5 kms. away from Tulshishyam near Dhari town, one S.T. bus bearing registration No. GRR 9984 and a bullet motorcycle, on which the respondents original claimants were travelling, met with an accident. The appellant is original opponent No. 2, Gujarat State Road Transport Corporation, owner of the bus involved in the accident which was driven by original opponent No. 1. The motorcycle was driven by claimant Ramesh Premjibhai whereas one original claimant Gobarbhai was sitting on pillion. The injured original claimant contended that the S.T. bus was driven by the driver in a rash and negligent manner and on the wrong side of the road, violently, dashed against the motorcycle. As a result of which, both of them were thrown off the motorcycle resulting into serious injuries. The injured claimant Ramesh Premjibhai filed M.A.C.P. No. 1119 of 1999 claiming an amount of Rs. 80,000/- whereas the pillion rider-injured claimant Gobarbhai Dhirubhai filed M.A.C.P. No. 1120 of 1999 claiming an amount of Rs. 1,50,000/- before the Motor Accident Claims Tribunal (Aux. I), Junagadh, which came to be transferred to Motor Accident Claims Tribunal (Main), Rajkot, wherein, the opponents S.T. bus party denied the allegations made in the petition and resisted the claims.

3. The Tribunal upon analysis and assessment of the evidence reached the conclusion that both the claimants are victims of road accident. On the contrary, the Tribunal found that the driver of the S.T. bus involved in the accident was responsible to the extent of 80% for happening of unfortunate road accident. The Tribunal apportioned the liability of the driver of the motorcycle to the extent of 20%. The claimant driver of the motorcycle came to be awarded an amount of Rs. 30,000/- in MACP No. 1119 of 1999 whereas the injured claimant pillion rider came to be award an amount of Rs. 1,50,000/- by way of compensation for personal injuries in MACP No. 1120/1999 under the impugned common judgement which is challenged before us.

4. At the time of admission, we were supplied copies of the documentary evidence and the deposition by the learned advocate for the appellant. After having heard him and considering the copies of the documentary evidence at the admission stage, we find that there is no substance in both these appeals. The apportionment of blameworthiness in the ratio of 80% and 20% between the driver of the S.T. bus and the motorcyclist could not be assailed in the light of the peculiar facts and circumstances emerging from the record of the case. The amount of compensation awarded by the Tribunal to each injured victim of the road accident is quite just and reasonable. The pillion rider has sustained permanent partial disablement. The amount of compensation awarded by the Tribunal is supportable by the medical evidence relied upon by the original claimants. The Tribunal highlighted the documentary evidence relied on by the claimants in paragraphs 12 and 13. Therefore, without reiterating the documentary evidence viva voce evidence relied on by the Tribunal, we find that the appeals, at the instance of the Gujarat State Road Transport Corporation, invoking the aid of provisions of Section 173 of the new Act are meritless and merit, only, fate of dismissal and accordingly, both the appeals are dismissed at the admission stage.

In view of the orders passed in the main appeals, no orders are passed on the Civil Applications.

The amount of Rs. 25,000/- deposited in each case along with the appeals under Section 173 of the new Act in the Registry shall be transmitted by the office to the Tribunal concerned, immediately, so as to pass appropriate directions for disbursement in terms of the impugned awards in each case. There shall be no order as to costs.

00000

(pkn)